

APPEAL NO. 040352
FILED APRIL 7, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 13, 2004. The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____; that the appellant (carrier) is not relieved from liability under Section 409.002 because the claimant did timely notify his employer pursuant to Section 409.001; and that the claimant had disability resulting from the injury sustained on _____, from January 18, 2003, and continuing through the date of the CCH. The carrier appealed, arguing that the hearing officer's determinations are against the great weight and preponderance of the evidence. The claimant responded, urging affirmance.

DECISION

Affirmed.

The claimant, a truck driver, testified that he was involved in a motor vehicle accident on _____, and that he reported his injury to BG, the dispatcher and supervisor, on January 8, 2003, after he sought medical treatment for his injuries. The carrier asserts on appeal that the evidence does not support the hearing officer's finding that the claimant gave timely notice of the injury to BG, since BG "specifically testified" at the CCH that the "[c]laimant did not inform him of any 'injury' until after the 30 days had expired." In response, the claimant correctly asserts that the record does not reflect that BG testified at the CCH, but rather JB, the general manager, testified at the CCH that the injury was not reported to him or to BG.

The claimant had the burden to prove that he was injured in the course and scope of employment, that he gave timely notice of his injury to his employer under Section 409.001, and that he had disability as defined by Section 401.011(16). Conflicting evidence was presented at the CCH. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). The hearing officer was persuaded by the evidence that the claimant sustained a compensable injury on _____; that the claimant informed BG, a supervisor with the employer, of the claimed injury of _____, and that it was related to his employment within 30 days of the date of the claimed injury; and that as a result of the claimed injury of _____, the claimant had been unable to obtain and retain employment at wages equivalent to the preinjury wage from January 18, 2003, and continuing through the date of the CCH. We conclude that the hearing

officer's determinations are supported by sufficient evidence and that they are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Robert W. Potts
Appeals Judge